

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

TYRONE MCDOWELL,

Plaintiff,

v.

DENIS MCDONOUGH, Secretary
Department of Veterans Affairs,
BRIAN STILLER, DANIELLE
BERGMAN, GRACE
STRINGFELLOW,

Defendants.



21-CV-338 (JLS) (JJM)

DECISION AND ORDER

Plaintiff Tyrone McDowell commenced this action on March 3, 2021 alleging discrimination on the basis of race and color, harassment, and retaliation in violation of Title VII of the Civil Rights Act of 1964 ("Title VII"). Dkt. 1. On December 22, 2021, Defendants Bergman, Stiller, and Stringfellow moved to dismiss the Complaint. Dkt. 14. Plaintiff opposed Defendants' motion. Dkt. 24. Bergman, Stiller, and Stringfellow replied in further support of their motion. Dkt. 26. This Court referred the case to United States Magistrate Judge Jeremiah J. McCarthy for all proceedings under 28 U.S.C. §§ 636(b)(1)(A), (B), and (C). Dkt. 17.

On August 1, 2022, Judge McCarthy issued a Report and Recommendation ("R&R") recommending that this Court grant the motion dismiss filed by Defendants Bergman, Stiller, and Stringfellow (Dkt. 14). Dkt. 37. On October 19, 2022, Plaintiff objected to the R&R. Dkt. 45. Bergman, Stiller, and Stringfellow

responded to Plaintiff's objections on November 3, 2022. Dkt. 47. Plaintiff did not reply.

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge's recommendation to which a party objects. *See* 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985).

This Court carefully reviewed the R&R, objections, response, and the parties' submissions. Based on its *de novo* review, this Court accepts and adopts Judge McCarthy's recommendation.

For the reasons stated above and in the R&R, the Court GRANTS these Defendants' motion to dismiss (Dkt. 14). All claims against Defendants Bergman, Stiller, and Stringfellow are dismissed. The Clerk of Court shall terminate Defendants Bergman, Stiller, and Stringfellow from the case. The case remains with Judge McCarthy for further proceedings consistent with the December 22, 2021 referral order (Dkt. 17).

SO ORDERED.

Dated: December 12, 2022
Buffalo, New York

A handwritten signature in blue ink, appearing to read 'John L. Sinatra, Jr.', written over a horizontal line.

JOHN L. SINATRA, JR.
UNITED STATES DISTRICT JUDGE